

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

UNITED STATES OF AMERICA,

Plaintiff,

:

Case No. 3:08-po-040

-vs-

Magistrate Judge Michael R. Merz

:

JOSEPH C. HARRIS,

Defendant.

DECISION AND ORDER

This case is before the Court on Defendant's *pro se* Motion to Terminate Probation (Doc. No. 19).

The record in this case indicates Defendant was placed on a two-year term of probation on May 21, 2008 (Doc. Nos. 12, 13). Defendant's presence for handling the case was obtained by writ of *habeas corpus ad prosequendum* (Doc. No. 11) as he was then in custody of the Montgomery County Sheriff on other criminal charges, to wit, theft by deception from an elderly or disabled person. As a result of those charges, he was given a five-year sentence of community control on June 10, 2008, but by October 14, 2008, had already been declared an absconder (See Doc. No. 16). On December 5, 2008, the Probation Department reported to the Court that Defendant's community control had been revoked and he was sentenced to nine months' imprisonment. *Id.*

On August 7, 2009, the Probation Department reported to the Court that Defendant had been convicted on January 27, 2009 of felony possession of cocaine and requested that a warrant be issued for his arrest, a request the Court granted (Doc. No. 17). That warrant has not been executed.

Although Defendant fails to mention it in his Motion, public records show that he is

presently incarcerated by the State of Ohio. Therefore the warrant should be lodged as a detainer.

If Defendant wishes to have the Court remove him from state custody for prosecution of the probation violation, he should request that his attorney, Assistant Federal Public Defender F. Arthur Mullins, file another motion for writ of habeas corpus ad prosequendum.

The Motion to Terminate probation is denied.

February 15, 2012.

s/ **Michael R. Merz**
United States Magistrate Judge